

EXPLANATORY MEMORANDUM TO
THE TURKS AND CAICOS ISLANDS CONSTITUTION ORDER 2011
2011 No. 1681

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 The Order establishes a new Constitution of the Turks and Caicos Islands.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 The Order is made under sections 5 and 7 of the West Indies Act 1962 (1962 c. 19). When it comes into force it will revoke the Turks and Caicos Islands Constitution Order 2006 (S.I. 2006/1913), the Turks and Caicos Islands Constitution (Interim Amendment) Order 2009 (S.I. 2009/701) and the Turks and Caicos Islands Constitution (Interim Amendment) (Amendment) Order 2010 (S.I. 2010/2966). Taken together the Orders to be revoked, each of which was made under the West Indies Act 1962, form the present Constitution of the Islands.

5. **Territorial Extent and Application**

5.1 This instrument applies to the Turks and Caicos Islands.

6. **European Convention on Human Rights**

As the instrument is subject to no parliamentary procedure and does not amend primary legislation, no statement is required.

7. **Policy background**

- *What is being done and why*

7.1 In August 2009 the Constitution of the Turks and Caicos Islands was amended to suspend ministerial government and dissolve the House of Assembly, executive and legislative power being conferred instead on the Governor. This was done following a Commission of Inquiry chaired by Sir Robin Auld which concluded that there was a high probability of systemic corruption in government and the legislature and among public officers of the Islands. The new Constitution established by this Order will restore representative government in the Islands, with a local Cabinet, Ministers and a

House of Assembly consisting of 15 elected members, 4 appointed members and the Attorney General. The Constitution confers several reserved powers on the Governor, in both the executive and legislative fields, as well as other checks on government in the form of independent institutions, notably an Integrity Commission, a Human Rights Commission, an Auditor-General, a Director of Public Prosecutions and local courts. The Constitution also makes detailed provision for public financial management. The new Constitution will be brought into force when United Kingdom Ministers and the Governor consider that the time and conditions are right for new elections in the Islands leading to the restoration of representative government.

- ***Consolidation***

7.2 No issue of consolidation is involved.

8. Consultation outcome

8.1 There has been long and extensive public consultation in the Turks and Caicos Islands on the content of the new Constitution, both before and after a draft text was published there in March 2011. A representative delegation from the Islands held discussions on the draft with United Kingdom Ministers in June 2011.

9. Guidance

9.1 There is no guidance document.

10. Impact

10.1 No impact on business, charities or voluntary bodies in the United Kingdom.

10.2 No impact on the public sector in the United Kingdom.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business in the United Kingdom.

12. Monitoring & review

12.1 The application of the instrument will be kept under constant monitoring and review.

13. Contact

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